

Comment 4: Commenters inquired whether out-of-state licensees would be exempt from CE requirements.

Response 4: The Board determined it is equally important for all Board licensees to obtain CE whether they are in-state or out-of-state. The Board notes that subsection (2)(b)(v) of the CE rule allows instructors from other states or jurisdictions to have their CE courses approved by the Board.

Comment 5: One commenter opposed the CE requirements stating that it will require hundreds of thousands of dollars annually for additional manpower at the State level.

Response 5: The Board will pre-approve CE courses and does not anticipate a need for additional State personnel to implement or administer the CE requirements.

Comment 6: One commenter stated that even with instructor qualifications in rule, CE courses will end up being taught by wholesale material and equipment suppliers and will not further the public's protection. The commenter would prefer to have State-sponsored traveling code seminars.

Response 6: The Board has set qualifications for instructors and for Board approval of course curricula in New Rule I. The Board established these criteria to ensure that only relevant CE courses would be offered and taught by qualified instructors. The Board has no plans to implement traveling code seminars at this time.

Comment 7: One commenter asked if the Board would recognize employment by a municipality as an inspector or plan checker as part of the CE requirements.

Response 7: The Board determined that all licensed journeymen and master plumbers will be required to obtain CE regardless of their particular employers or places of employment.

Comment 8: One commenter stated that master plumbers only should be required to obtain CE and then pass the acquired knowledge onto the journeymen plumbers.

Response 8: The Board considers it equally important for all licensees, both journeymen and master plumbers, to obtain CE for the safety, health and welfare of the public.

Comment 9: One commenter was concerned about the cost to licensees of obtaining the required CE.

Response 9: The Board shares that concern, but concluded that it is essential for the public health, safety and welfare that CE be imposed. The Board notes that many other professions require CE and that many courses offered are at very low cost due to competition between CE providers.

Comment 10: One commenter stated that a random audit of 30% is insufficient to adequately monitor compliance and suggested an audit of 100% of all active licensees.

Response 10: The Board was concerned as well that 30% was not sufficient and concluded that 50% would better protect the public and is the maximum audit amount allowed by statute.

Comment 11: One commenter questioned whether it is reasonable to require licensees to maintain records for three years if audits are conducted annually.

Response 11: The Board determined that having a three-year record retention requirement for licensees is reasonable to assist the Board in obtaining information during investigation, contested cases and litigation of potential disciplinary actions against licensees.

Comment 12: One commenter asked whether the Board would accept CE courses completed online or through correspondence.

Response 12: The Board has the authority to approve any course meeting the requirements set forth in rule, including online or correspondence courses.

Comment 13: One commenter inquired whether vendors would be allowed to be CE instructors.

Response 13: The Board determined that any person meeting the qualifications in rule can be an instructor.

Comment 14: One commenter asked if town resolution plumbers, who are exempt from licensure, would be required to obtain CE.

Response 14: Because town resolution plumbers are exempt from licensure laws and rules, the Board has no authority to require them to obtain CE.

Comment 15: Two commenters asked about placing licenses on "inactive" status in lieu of maintaining active licensure and complying with CE requirements.

Response 15: The Board lacks statutory authority to create an "inactive" status for plumbing licenses. Pursuant to 37-1-141, MCA, licenses not renewed by the renewal date will be placed in a lapsed status for 45 days. Licenses not reactivated within the 45-day period will be placed on expired status. Lastly, licenses not reactivated within the two-year expired period will be terminated and reapplication and reexamination will be required for licensure.

Comment 16: One commenter requested clarification of New Rule I, (2)(b)(iii), which states "a certified journeyman and

apprentice plumbing inspector." The commenter suggested that it should be "instructor", not "inspector."

Response 16: The Board concurs with the comment. The use of "inspector" was a clerical error and has been amended to "instructor" accordingly.

4. The Board has amended ARM 24.180.607 exactly as proposed.

5. The Board has adopted NEW RULE I (24.180.2102) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.180.2102) CONTINUING EDUCATION REQUIREMENTS (1) remains as proposed.

(2) through (2)(b)(ii) remain as proposed.

(iii) a certified journeyman and apprentice plumbing ~~inspector~~ instructor.

(iv) through (3) remain as proposed.

(4) The department may conduct a random audit of up to ~~30%~~ 50% of all active licensees following the licensee renewal process.

(a) through (6) remain as proposed.

AUTH: 37-69-202, MCA

IMP: 37-1-306, MCA

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

/s/ KEITH KELLY
Keith Kelly Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

Certified to the Secretary of State November 28, 2005